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**SUPREME COURT ISSUES OPINION THAT FAMILY COURTS CONTINUE TO
HAVE AUTHORITY OVER PROBATE AND QUIET TITLE ACTIONS**

The Navajo Nation Supreme Court has issued an opinion in In the Matter of Quiet Title to Livestock Grazing Permit No. 8-487 Formerly Held by Martha Francis, No. SC-CV-41-09, in which the Court reverses the Kayenta Family Court's dismissal of the matter for lack of subject matter jurisdiction.

The family court had dismissed because it stated that pursuant to Navajo Nation Council Resolution CO-59-03, the Office of Hearings and Appeals is the proper forum for grazing permit disputes. The Supreme Court held that Resolution No. CO-59-03, which transferred responsibility to resolve land boundaries and grazing rights disputes from the Resources Committee to the Office of Hearings and Appeals, did not establish the Office of Hearings and Appeals as the exclusive forum to resolve grazing disputes and did not divest the Family Courts of their authority to hear and decide grazing permit disputes as part of probate and quiet title actions. In fact, the Office of Hearings and Appeals is not authorized to hear quiet title or probate actions. The Court then remanded the case to the family court for more hearings.

Before Resolution No. CO-59-03 was passed, the jurisdiction of the Family Court to hear probate and quiet title actions was firmly established in common law. Family Courts were established with original jurisdiction over all cases involving family matters, including domestic relations and probate, at 7 N.N.C. § 253 (B).

The case involved a decedent who orally distributed her grazing permit to family members during her lifetime, but the distribution may not have been completed due to disputes and inaction by the grazing committee. The family initially sought a grazing committee resolution after decedent passed. When the resolution was obtained, the family pursued a peacemaking probate, which was stalled due to disputes, and the matter was brought back to the grazing committee. Finally, the disputing family member filed a quiet title action after ten years had passed with no grazing committee decision.

The Supreme Court stated that the family court must look into whether the decedent perfected a transfer of the permit during her lifetime or effected an oral will. Additionally, the Court addressed the 5-year statutory probate filing deadline. The Court stated that as none of the three forums and actions pursued by the family members were wrong in attempting to give effect to the decedent's wishes, they served to toll the probate deadlines. The Court further stated in a footnote that a late filing does not mean that a decedent's estate may never be legally distributed. A decedent's family may still seek distribution of the decedent's estate through intestate administration after the statute of limitations has passed.

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